CANUCK LAW
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JUNE 9, 2025 BY RONNIE

Universal Ostrich Farms, Part 5: Notice Of Appeal Alleges Incompetent & Conflicted Counsel

FEDERAL COURT OF APPEAL

Federal Court of Appeal File No.
Federal Court File No. T-294-25/ T-432-25

FILED — FEDERAL COURT OF APPEAL / COUR D'APPEL FÉDÉRALE — May 26, 2025 / 26 mai 2025 — Ginette Lincheniki — VAN — 1 — DEPOSE

BETWEEN:

UNIVERSAL OSTRICH FARMS INC.

Appellant

and

CANADIAN FOOD INSPECTION AGENCY

Respondent

NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU

by the appellant. The relief claimed by the appellant appears below.

The proceedings with Universal Ostrich Farms didn't end when Justice Zinn ruled that the Canada Food Inspection Agency (CFIA) had acted reasonably. It's being challenged again. It's heading back to the Federal Court of Appeal, in order to overturn that decision.

See Parts 1, 2, 3 and 4 in the series for more information.

A Notice of Appeal has been filed with the Federal Court of Appeal, attempting to overturn the decision of Justice Zinn. It challenges a number of issues both with the ruling, and the previous representation. This isn't to reargue the case, but to demonstrate that the findings were flawed. An initial response has been filed, although more documents are still coming in.

- The Federal Court erred in determining the scope of the CFIA mandate
- The Federal Court applied the test wrong in reviewing administrative decisions
- The Federal Court erred in assessing the available evidence
- The Federal Court misunderstood several key arguments
- Previous counsel was ineffective at doing their job
- Previous counsel had (presumably undisclosed) conflict of interest

Also noteworthy: there's a Motion filed to again stay the cull order, pending resolution of the larger proceeding. At the time of writing this, the Appellants have sent in their Motion Record, but the CFIA has not yet responded.

Appeal Claims Previous Counsel Had Conflict Of Interest

> 13. In addition and/or in the further alternative, the Appellant submits that the order of Zinn J. be set aside given the ***ineffective assistance of Appellant's counsel*** at the application for judicial review. The Appellant's prior counsel's acts and omissions at that hearing fell well outside the range of reasonable professional assistance, amounted to incompetence, and resulted in a miscarriage of justice. Notably, the ***Appellant's prior counsel had a financial stake in the destruction of the Appellant's ostriches, resulting in a blatant conflict of interest that adversely affected counsel's representation*** of the Appellant's interests.

The Notice of Appeal alleges ineffective assistance of counsel at the previous proceeding. Worse, it claims that there were a financial conflict of interests that would work *against* good representation. Now, it's not spelled out what this conflict(s) was, but hopefully it will be in later documents.

Appeal Of Justice Battista's Stay Discontinued

January 31st, 2025, Justice Battista of the Federal Court stayed the CFIA cull order, at least until the broader challenge could be heard. The Government appealed it, although it was eventually dropped. Presumably, Justice Zinn's ruling made it moot.

The rest of the documents are linked below.

Timeline Of Major Events In Proceedings

For clarity, this hasn't gone ahead in a linear manner. There have been multiple, overlapping proceedings along the way. Hopefully, this helps somewhat.

January 30th, 2025: Universal Ostrich Farms filed Application to challenge the CFIA "cull order" of their ostriches.

January 30th, 2025: UOF brings Motion to temporarily block culling.

January 31st, 2025: CFIA files a Responding Motion Record to the Stay sought.

January 31st, 2025: Justice Battista issues a temporary stay of the CFIA cull order.

February 7th, 2025: UOF brings a second Application, this time challenging the refusal of the CFIA to issue an exemption for their birds.

February 10th, 2025: CFIA begins Appeal against the staying of the cull order.

February 11th, 2025: UOF files Motion Record in support of request for exemption.

February 20th, 2025: UOF files that it intends to respond at the Appeal.

March 12th, 2025: Parties send their agreement as to the contents of the Appeal Book.

April 11th, 2025: Appeal Book is filed, in challenge to Justice Battista's ruling.

May 13th, 2025: Justice Zinn denies both Applications. Those were (a) to challenge cull order, and (b) to challenge the exemption refusal.

May 23rd, 2025: A Notice of Discontinuance is filed in the Appeal against Justice Battista's stay. Since Justice Zinn ruled on the overall case, it would be considered moot.

May 26th, 2025: Notice of Appeal is filed against Justice Zinn's decision.

May 28th, 2025: CFIA files a Notice of Appearance.

June 2nd, 2025: UOF files its Motion Record to stay the culling.

Note: All of the dates listed can be confirmed by searching the respective cases on the Federal Court website. It keeps a detailed listing of all significant events.

Anyhow, readers will be updated with whatever twists and turns emerge. But it's clear that these people won't go down without a fight.

Regardless of what ultimately happens in Court, Universal Ostrich Farms is still operating what amounts to a bio-lab on their land. Or rather, the Quigleys' land. Judging by the response that earlier articles have received, and the work of David Dickson, it seems many people didn't know this.

COURT OF APPEAL (CHALLENGING JUSTICE ZINN'S ORDER)
(1) Ostrich APPEAL Notice Of Appeal (May, 2025)

COURT OF APPEAL (JUSTICE BATTISTA STAYING CULL ORDER):
(1) UOF Order To Stay Culling (January, 2025)
(2) UOF Notice Of Appeal (February, 2025)
(3) UOF Notice Of Appearance (February, 2025)
(4) UOF Agreement Appeal Book Contents (March, 2025)
(5) UOF Joint Appeal Book (April, 2025)
(6) UOF Consent To Extend Time (May, 2025)
(7) UOF Notice Of Discontinuance (May, 2025)

FEDERAL COURT DOCUMENTS (CFIA):
(1) Ostrich Notice Of Application Certified (January, 2025)

(2) Ostrich Notice Of Application (January, 2025)

(3) Ostrich Notice Of Motion (January, 2025)

(4) Ostrich Bilinski Affidavit (January, 2025)

(5) Ostrich Espersen Affidavit (January, 2025)

(6) Ostrich Pelech Affidavit (January, 2025)

(7) Ostrich Jones Affidavit (January, 2025)

(8) Ostrich Responding Motion Record (January, 2025)

(9) Ostrich Responding Motion Record Expedited (February, 2025)

(10) Ostrich Motion Record Ex-Parte (February, 2025)

(11) Ostrich Exemption Notice Of Application (February, 2025)

(12) Ostrich Exemption Motion Record (February, 2025)

(13) Ostrich Ruling Of Justice Zinn (May, 2025)

MONEY:

(1) https://bcrising.ca/save-our-ostriches/

(2) https://www.gofundme.com/f/help-ostrich-farmers-fight-to-save-herd-from-avian-flu?attribution_id=sl%3A80e09934-7413-429b-acfb-2f7015cc19d3&lang=en_CA

(3) https://www.givesendgo.com/save-our-ostriches

(4) https://www.kinexus.ca/

CANADA, CANADIAN DECISIONS, GRIFTERS, OSTRICHES, PROCEDURAL